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Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Addendum

Visit to Ghana*,**

Summary

At the invitation of the Government, two members of the Working Group on the issue of human rights and transnational corporations and other business enterprises undertook an official visit to Ghana from 8 to 17 July 2013. The Working Group experts appreciated the open and frank discussions that they had with members of the Government, Parliament, business enterprises and industry associations, affected stakeholders, civil society organizations, the Ghana Commission on Human Rights and Administrative Justice and with other stakeholders, during their visit. In the present report, the Working Group presents key findings regarding potential and actual negative impacts of business activities, as well as examples of good practices and progress in ensuring business respect for human rights in Ghana.

During their visit, the experts found that the fast pace of economic growth in Ghana necessitates heightened focus on strengthening institutions to oversee business activities effectively; in particular, there is a need to improve the capacity of the judiciary and the agencies tasked with monitoring compliance with regulations and legislation relating to such activities. They also found that challenges exist in relation to legacy issues in the mining sector, child labour in the informal sector and in the cocoa supply chain, and access to land and resettlement. Meaningful consultation with affected communities and access to information by those communities are central issues across sectors.

* Late submission.

** The summary of the present report is circulated in all official languages. The report itself, contained in the annex, is circulated in the language of submission only.

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Annex

[English only]

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on its visit to Ghana (8 to 17 July 2013)

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I. Introduction

1. Further to Human Rights Council resolution 17/4, the Working Group is mandated by the Council to conduct country visits. At the invitation of the Government, two experts from the Working Group, Alexandra Guáqueta and Pavel Sulyandziga, visited Ghana from 8 to 17 July 2013. The objectives of the visit were to raise awareness of, and advocate for, implementation of the Guiding Principles on Business and Human Rights (A/HRC/17/31, annex)[1] (hereafter the Guiding Principles); identify current initiatives, developments, opportunities, challenges and good practices to prevent and identify adverse impacts of business activities on human rights; and identify any particular challenges faced by groups at risk of being in vulnerable situations.

2. The experts met with Government authorities, including the Minister of Foreign Affairs and the Minister of Justice, who is also the Attorney General, as well as officials from departments of the Ministries of Lands and Natural Resources, Trade and Industry; Employment and Social Welfare; Gender, Children and Social Protection; and the Environmental Protection Agency. The Working Group experts further met with members of the Parliamentary Select Committees on Trade, Industry and Tourism; Lands and Forestry; Mines and Energy; Food, Agriculture and Cocoa Affairs; and Youth, Sports and Culture. They also met with the Ghana Commission on Human Rights and Administrative Justice and with representatives of business enterprises, civil society, trade unions and United Nations agencies. The experts heard directly from affected persons and victims, both at the Accra meetings and during the field visits. In addition to holding meetings in Accra, the experts travelled to the Central and Ashanti regions to meet with communities and business enterprises to more closely examine the mining and cocoa sectors. The experts visited cocoa-growing communities in Assin Fosu and New Edubiase, and the Obuasi mine operated by AngloGold Ashanti, and met with communities living near the mine.

3. The Working Group thanks the Government of Ghana for the invitation and for the valuable assistance before, during and after their visit to the country. The experts also thank the organizations and individuals with whom they met during their visit, and who facilitated site visits and meetings with stakeholders and communities. The experts appreciated the genuine willingness and openness on the part of all stakeholders in discussing progress and challenges in the protection of human rights in the context of business activities.

4. The experts focused in particular on extractives, including gold mining, the nascent oil and gas sector and the cocoa production sector, as these sectors are important to the Ghanaian economy. They also examined issues such as land tenure and acquisition, child labour, labour rights and access to remedy and observed challenges related to informality in the economy.

5. In the present report, the Working Group experts describe their findings and make recommendations for actions that may assist in remedying the challenges identified.

II. Context

6. Ghana's gross domestic product (GDP) grew 14.4 per cent in 2011, and around 8 per cent in 2012, significantly outperforming the average for sub-Saharan Africa, and enabling

[1] Also published as Office of the United Nations High Commissioner for Human Rights (OHCHR), *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (New York/Geneva, 2011).

Ghana to make the transition to a "lower middle-income country" in 2011.[2] That stable growth has been fuelled primarily by the commercialization of oil and gas production and strong cocoa and gold outputs, together with high commodity prices for those exports.[3] Other sectors, including construction and services, have also shown strong growth, and now account for more than half of Ghana's economic output.[4] Ghana's economic growth has been enabled, and is reinforced by, a strong multiparty political system, stable institutions, and a vibrant civil society sector. However, around 80 to 90 per cent of the population is still employed in the informal sector,[5] many in subsistence or near-subsistence small-scale agriculture and small trade.

7. Ghana's rapid economic growth poses both opportunities and challenges related to business impacts on human rights. As previously noted by the Working Group,[6] all countries, and particularly those undergoing rapid economic development, need to maximize the positive effects of business (including economic development, building infrastructure and employment) while minimizing the negative impacts (such as damage to the environment, violation of labour rights, reduced access to economic, social and cultural rights). With economic growth and diversification, State institutions will come under pressure to keep up with effectively preventing and addressing negative impacts on human rights. Within a constrained resource environment, the Government will necessarily need to prioritize those areas where risks are severe or may impact large numbers of people. A national action plan for implementing the Guiding Principles should help the Government of Ghana to identify areas of particular risk so as to prioritize the strengthening of laws, regulations, policies and oversight.

8. However, business enterprises, both foreign and local, also have independent responsibilities to respect human rights, meaning that they need to have in place systems for identifying, preventing, mitigating and remedying potential and actual impacts. An active civil society engaged on these issues is also critical for advocating for progress as well as for monitoring implementation by Government and business of their respective duties and responsibilities.

III. Legislative framework

9. Ghana has signed all nine of the core international human rights treaties and has ratified eight of them.[7] Ghana has also ratified all eight fundamental International Labour Organization (ILO) conventions, as well as 44 of the 177 ILO technical conventions in

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[2] World Bank, "Ghana Looks to Retool Its Economy as it Reaches Middle-Income Status," (Washington D.C., 18 July 2011). Available from http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/GHANAEXTN/0,,contentMDK:22964653~menuPK:50003484~pagePK:2865066~piPK:2865079~theSitePK:351952,00.html.

[3] Ghana produced nearly 120,000 barrels of oil and 120,000 million standard cubic feet of dry gas per day in 2013: Ghana Investment Promotion Centre, press release 2013. Available from http://www.gipcghana.com/press-and-media/159-ghana-to-produce-240-000-barrels-of-oil-daily.html.

[4] International Monetary Fund, Ghana 2013 Article IV Consultation, IMF Country Report No. 13/187, June 2013.

[5] See Martha Chen and others, *Progress of the world's women 2005: Women, work & poverty* (New York, UNIFEM, 2005), p. 44.

[6] A/HRC/23/32/Add.1, para. 4.

[7] Ghana has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance.

force as of 2013. Ghana has a dualist legal system; treaties to which Ghana is a party becomes part of national law only through an express Act or resolution of Parliament.[8]

10. The Constitution of 1992 protects a number of human rights, including the right to life, liberty of the person, dignity (including prohibition on torture and cruel and unusual punishment), equality before the law and prohibition on discrimination on the basis of gender, race, colour, ethnic origin, religion, creed or social or economic status. The Constitution also protects the rights to property and privacy, fair trial, freedom of speech, free and compulsory education, prohibits appropriation of property, except in certain limited circumstances, and provides for the right of workers to form and join trade unions.[9] Custom is recognized by the Constitution as a source of law; it is applied by customary authorities as well as by State courts, unless it is found to violate the Constitution. Customary law is subject to statute law.

11. Chapter 18 of the Constitution provides for the establishment of a national Commission on Human Rights and Administrative Justice (CHRAJ), with a broad mandate to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment by public officers, as well as complaints relating to the activities of individuals and private enterprises that allege violations of the rights contained in the Constitution.

IV. Impact of business activities on human rights

A. Strategic frameworks for business activities

1. Policy coherence on human rights in the context of private-sector-driven development

12. The Ghana Shared Growth and Development Agenda (2010-2013)[10] provides a framework for medium-term economic and social development for Ghana, with the overarching goal of attaining a per capita income of at least US$3,000 by 2020, and with economic growth and private sector development as the main vehicles.

13. The Guiding Principles prescribe that States should ensure that governmental departments, agencies and other institutions that shape business practice are aware of and observe the State's human rights obligations when fulfilling their respective mandates.[11] In that context, the Working Group appreciates that the 2010-2013 development framework recognizes the need to strengthen the regulatory framework regarding shareholder rights and corporate social responsibility, as well as corporate accountability mechanisms, and in particular, that it explicitly aims to "ensure that corporations act as good corporate entities with regard to human rights, social responsibility and environmental sustainability."[12] However, the Working Group noted a lack of specific implementation steps taken to date to ensure that businesses respect human rights.

14. Specifically, the Working Group noted that business enterprises and industry associations did not appear to have received any information about the Guiding Principles

[8] Constitution of the Republic of Ghana, 1992, art. 75.

[9] Ibid, chap. 5, art. 12 (1).

[10] Ghana, Ministry of Communications, *Ghana Shared Growth and Development Agenda (GSGDA), 2010-2013: Medium-term National Development Framework*, Policy Framework (February 2011). Available from http://www.mofep.gov.gh/sites/default/files/pbb/Final%20Draft%20MTDP-%20COMMUNICATIONS.pdf.

[11] Guiding Principles, principle 8.

[12] Ghana, *Ghana Shared Growth and Development Agenda, 2010-2013*, p. 177 (see footnote 11).

from the Government, nor any other kind of communication about human rights responsibilities. It found, however, that some business associations, notably the Ghana Chamber of Mines, have taken steps to promote responsible business conduct. Overall, the Working Group found that there was very low awareness among local businesses and industry associations about human rights and business responsibilities as defined in the Guiding Principles.

15. The Working Group emphasizes that the Guiding Principles prescribe a "smart mix" of measures to ensure business respect for human rights. It recommends that the Government use existing business networks, including the local Global Compact, to actively disseminate information and communicate its expectations regarding the Guiding Principles. In particular, the Working Group recommends the involvement of high-level government officials, including those officials working on economic policy, in such communication efforts. This may counter the perceptions noted by the experts among some business enterprises that human rights are only the concern of specialized Government departments or a "luxury" that is irrelevant in the context of Ghana's economic development.

16. In June 2011, the Government of Ghana approved the National Policy on Public Private Partnership (NPPPP)[13] to increase private-sector involvement in infrastructure and public service delivery. The NPPPP recognizes the need for public-private partnerships to have in place safeguards, especially for vulnerable groups, and such partnerships should be undertaken with the highest standards of environmental, climate and social safeguards. The Working Group stresses that States maintain their human rights obligations when they contract with the private sector for delivery of public services, as clarified in the Guiding Principles,[14] and urges the Government of Ghana to ensure that all public-private partnerships integrate robust impact assessments and ongoing human rights due diligence.

17. At the time of the experts' visit, a new Ghana Investment Promotion Centre bill was being debated in Parliament. The Ghana Investment Promotion Centre Act governs investment in all sectors of the economy, except minerals and mining, oil and gas, and the free zones. The experts discussed this bill with members of Parliamentary committees, and noted that the bill did not contain any provisions on respecting human rights or responsible business conduct.[15] The Working Group notes that, in line with the State's duty to protect human rights, as set out in the Guiding Principles, legislation designed to attract and facilitate foreign investment should include appropriate safeguards to prevent negative impacts from such investment and to facilitate business respect for human rights.

18. The Working Group also emphasizes that bilateral trade and investment treaties should not constrain the Government of Ghana's policy space for evolving the regulatory framework to protect rights or for ensuring the progressive realization of economic and social rights. As Ghana pursues foreign investment, there is an acute need to ensure that investment agreements integrate human rights concerns from the outset. The Ghana Commission on Human Rights and Administrative Justice could potentially play a role during the review processes of draft investment and trade agreements.

19. The Working Group was encouraged to learn that the Ministry of Trade and Industry was drafting a national policy on corporate social responsibility (CSR), although from the information received by the Working Group experts, it was not yet known if this policy

[13] Ghana, Ministry of Finance and Economic Planning, "National Policy on Public Private Partnerships (PPP): Private Participation in Infrastructure and Services for Better Public Services Delivery (June 2011). Available from http://www.mofep.gov.gh/sites/default/files/docs/pid/ppp_policy.pdf.

[14] Guiding Principles (A/HRC/17/31, annex), principle 5, commentary.

[15] The bill was passed by the Parliament of Ghana on 18 July 2013.

would address the corporate responsibility to respect all internationally proclaimed human rights. The Working Group recommends that the policy set the Guiding Principles as the minimum benchmark for foreign and domestic businesses. Special attention should be paid to labour rights across all economic sectors (including agribusiness, construction, extractives, finance and manufacturing), and to issues related to land use and tenure. It notes that risks of causing or contributing to adverse impacts in these areas are likely to increase in the supply chain as it stretches into the informal sector.

20. The Working Group further recommends that institutions charged with protecting rights and those promoting foreign investment and exports enter into regular dialogue on corporate governance and business conduct with Ghanaian civil society organizations and with business leaders as well as industry umbrella organizations, including Ghana Employers' Association, Ghana Association of Industries, the Chamber of Commerce and the Chamber of Mines, around human rights impacts and on the promotion of responsible business conduct that is respectful of national laws and international norms.

2. Strengthening institutions to prevent adverse impacts

21. The Working Group received information that while the Government has strengthened State institutions promoting economic activity and investment, some key State institutions charged with protecting rights, including departments in the Ministry of Employment and Social Welfare – in particular the Labour Commission and the Labour Inspectorate – and the Ministry of Gender, Children and Social Protection, have not benefited from similar investment, which constrains their capacity to follow-up on compliance with legislation and regulations effectively.

22. In that context, the Working Group also notes the need to ensure that human rights standards are effectively integrated into the institutions that aim to promote foreign investment and facilitate links to global markets in new sectors – such as oil – as well as in traditional sectors. In that way, prevention can be strengthened and the increasing pressure on monitoring and dispute-resolution bodies could be eased. The Ghana Investment Promotion Centre should be given the mandate to encourage and, where appropriate, require foreign business enterprises wishing to enter Ghana to respect all internationally proclaimed human rights. Other agencies that aim to attract investment, such as the Ghana Free Zones Board, should also implement measures to require and facilitate business respect for human rights, such as requiring human rights due diligence, reporting and monitoring the performance of business enterprises. Human rights norms should guide the work of such agencies in the development of labour policies specific for export processing zones, and not contribute to the lowering of standards in such environments.

23. The Working Group was encouraged to learn about the AKOBEN[16] programme under the Environmental Protection Agency (EPA), a creative exercise of public benchmarking in corporate conduct that appears to be taken seriously by business. The AKOBEN programme covers the 16 largest mining companies and the 100 largest manufacturing companies. It ranks companies on a scorecard based on business self-reporting against more than 100 indicators, data collected through site inspections as part of the EPA's enforcement protocol and field audits. EPA's role of granting environmental permits makes it a key technical gatekeeper for prevention and compliance in the area of business and human rights and the AKOBEN programme is a positive measure for maximizing the effectiveness of limited resources. However, EPA will need the appropriate resources to scale up this initiative as Ghana's private sector continues to grow. Strategic sectors requiring environmental impact statements, such as oil and infrastructure, should

[16] Environmental Protection Agency, AKOBEN Programme, see http://www.epaghanaakoben.org/.

also be rated through this programme. The Working Group particularly recommends that the planned update of the AKOBEN framework integrate the Guiding Principles.

B. Specific issues and industries of concern

1. Access to effective remedy

Judicial remedy

24. During its visit, the Working Group received information of multiple obstacles encountered by victims of human rights abuses by business enterprises in accessing judicial remedy. According to information received, economic, social and cultural rights are difficult to enforce through the courts. Practical obstacles include the costs of pursuing a claim and the difficulty of obtaining affordable legal assistance, as well as the lack of capacity of judges and local courts in matters relating to business impacts on human rights. The experts also received reports that courts at the local level, in particular, were subject to political and business influence, which hampered the ability of victims to obtain effective remedy.

25. The Working Group notes that the Government of Ghana has, in response to a report of the Constitution Review Commission,[17] committed to increasing legal aid, particularly for persons who face monetary and other obstacles in accessing justice. This should also benefit access to judicial remedy for persons whose rights have been violated as a result of business activity. The Government has also established "Human Rights Courts" specifically to hear cases related to violations of human rights and fundamental freedoms. However, from the information received by the Working Group experts, in some instances, judges of those courts lack adequate training.

Commission on Human Rights and Administrative Justice

26. The Constitution provides for the establishment of a national Commission on Human Rights and Administrative Justice (CHRAJ), with a broad mandate to investigate: complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by public officers; complaints relating to the functioning of the administrative organs of the State; and complaints of violations of fundamental rights and freedoms by individuals, private enterprises and other institutions.[18]

27. CHRAJ receives around 13,000 complaints per year relating to its three main functions. According to information received, in 2012, 314 complaints received by CHRAJ related to business activities. This relatively low percentage is not necessarily representative as CHRAJ typically only initiates investigations in response to complaints; therefore it could also be indicative of lack of awareness among communities.

28. The experts learned that mediation is generally the preferred process for resolving complaints related to business conduct, due to cultural acceptance and its ability to improve company-community relations. In 2011, CHRAJ reportedly successfully reached agreement through mediation in around 90 business-related complaints. Aspects of mediated outcomes may include ensuring that the State is held accountable, compensation (including restoring, replicating or improving conditions), agreements on the provision of vital resources such as

[17] Ghana, "Report of the Constitution Review Commission: From a Political to a Developmental Constitution" (20 December 2011). Available from http://www.ghana.gov.gh/index.php/information/reports/2573-report-of-the-constitution-review-commission.

[18] Constitution of the Republic of Ghana, 1992, chap. 18, art. 218.

water, transition support in the context of resettlement, addressing sources of sustainable livelihoods, and other forms of remedy. If mediation fails, CHRAJ can initiate an investigation; this provides a vital incentive to companies to engage in mediation.

29. The Working Group was encouraged that CHRAJ has developed considerable expertise in business and human rights, and provides assistance in obtaining remedy to people adversely impacted by business activities. CHRAJ can also play an important role in ensuring that Government and business enterprises learn from incidents, address root causes and modify policies and practices to prevent further harm.

30. However, the Working Group received information that, while the process of mediation appears to lead to positive outcomes, in cases where companies do not comply with CHRAJ's recommendations, CHRAJ must seek the Minister of Justice-Attorney General's intervention to enforce its decisions, and there is often a significant delay in that process. The Working Group also learned that CHRAJ's funding is not sufficient for it to be able to carry out its mandate nationwide, and that retention of qualified lawyers is a significant issue.

2. Impacts from the oil and gas sector

31. The experts noted high expectations and a lively public debate regarding the potential socioeconomic benefits of growth in the oil sector. In order to translate natural resource wealth into social benefits, several safeguards need to be in place, one of which is a robust system to identify and address the adverse impacts of oil and gas operations on the environment and on people, which should be grounded on transparent participatory processes.[19] The Working Group recommends that the Government make explicit the expectation that oil and gas companies implement the Guiding Principles and that it build on existing international industry best practice on human rights[20] in developing reporting and monitoring requirements. In that regard, Ghana could build on best practices from the Extractive Industries Transparency Initiative.

32. The experts met with representatives of canoe owners' associations, who related how the exclusion zones around oil rigs, which are partly related to safety standards, and the movements of oil vessels, are negatively impacting the livelihoods of local fishermen. Some stakeholders noted that while the oil companies were required to conduct environmental impact statements prior to licensing, impacts on fisheries and rights of local fishermen and were not taken into account and the local fishermen were not consulted. The Working Group notes that local canoe owners' associations would be a relevant entry point for dialogue between oil and gas companies and the communities concerned.

3. Land acquisition, land use, resettlement and stakeholder engagement

33. The Constitution[21] protects the right to own property and against compulsory possession or appropriation of property by the State, except in certain limited circumstances, with provisions for fair and adequate compensation and due process. Administration and access to lands are regulated by a complex network of legislation, including the Administration of Land Act 1962 (Act 123), the Administration of Lands (Amendment) Decree (A.F.R.C.D. 61), the Land Registry Act 1962 and the Land Title

[19] See, for example, the Natural Resources Charter and the Extractive Industries Transparency Initiative, of which Ghana is a member.

[20] See, for example, International Petroleum Industry Environmental Conservation Association (IPIECA), Business and Human Rights Initiative, available from http://www.ipieca.org/topic/human-rights/business-and-human-rights-project.

[21] Constitution of the Republic of Ghana, 1992, chap. 5, art. 18 and chap. 21.

Registration Regulations 1986. Specific acts and decrees govern access to and use of natural resources.[22] Only surface rights are recognized; as per the Constitution, all mineral resources belong to the State.[23]

34. Ghana's system of land ownership, governance and tenure comprises various forms of customary ownership and stewardship of land as well as enacted legislation.[24] Public and State lands are held in trust by the Government of Ghana for the people of Ghana: private lands are generally held in communal ownership or in trust by a stool, skin, clan, family or individual, on behalf of a community.[25] A general feature of the customary land governance system is that many land *users* are not land *owners*, which may leave them more vulnerable to negative impacts from land acquisitions and resettlements.

35. As the agricultural, infrastructure, manufacturing and extractives sectors of Ghana continue to grow, the demands for access to land will grow correspondingly (by the private sector as well as by the State granting leases of publicly owned land to business enterprises), which may lead to the displacement or resettlement of communities. The Working Group emphasizes that deprivation of access to land without adequate compensation or lack of tenure security for individuals or communities can have numerous negative impacts on their right to housing, food, work, education, health and other rights.[26]

36. The experts noted that the EPA's regulations on environmental impact assessments[27] require that business enterprises consult with persons who may be affected and, in the case of activities that may lead to displacement or resettlement, conduct a public hearing. However, according to information received, it appears that, in practice, access to information is often inadequate, with notices of planned projects that would affect land use and ownership being displayed in English only (and not in local languages) and for the shortest time possible, in only district assemblies and not in the actual communities. The experts also received information that communities are sometimes not adequately consulted before planned projects, and therefore do not have the opportunity to participate in decision-making about changes that would affect them. The Working Group emphasizes the requirements in the Guiding Principles for business enterprises to engage with stakeholders concerned in a meaningful way in order to assess potential impacts and address risks.[28]

37. The experts noted that most of the stakeholders appeared to focus on the cash compensation element of resettlement packages to the exclusion of other important aspects of the resettlement process that are aimed at ensuring that communities would not be worse off than prior to resettlement — including participatory planning processes standards for disclosure of information, verification of community understanding of the information given to them, quality and location of resettlement housing, access to health, education, transport, services and livelihoods —, despite the provisions in the legal framework to address such issues. The experts met with communities that had been resettled in the past and found that some communities were still struggling to stay self-sufficient many years

[22] For an overview of legislation governing access to and use of land, see the Ghana National Land Policy 1999.

[23] Constitution of the Republic of Ghana, 1992, chap. 21, art. 257 (6).

[24] Ghana, National Land Policy 1999.

[25] Ghana, National Land Policy 1999, p. 2, para. 2.1.

[26] See, for example, the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, A/HRC/22/46; the Report of the Special Rapporteur on the right to food, A/65/281; also World Bank Operational Policy 4.12 - Involuntary Resettlement, para. 1.

[27] Ghana, Environmental Assessment Regulations 1999 (LI 1652).

[28] Guiding Principles (A/HRC/17/31, annex), principle 18.

after the resettlement. Community members reported that contributing factors included resettlement on land with less favourable access to farmland or waterways, distance from markets and few transport links or lack of public services, such as water delivery. That has resulted in long-term responsibilities for the businesses involved to take on a semi-public role in providing water, health clinics and other services. The Working Group emphasizes that transitional support to resettled communities should be comprehensive and may require business enterprises to support communities over an extended period; however, it should not result in long-term dependency on the business.

38. In that context, the Working Group encourages the Government to review the Environmental Assessment Regulations (1999), as well as other relevant regulations governing access to land and compensation for deprivation of land and land use, to align them with the requirements set out in the Guiding Principles, and to strengthen the mandate of the Environmental Protection Agency to enable it to effectively monitor compliance. The Working Group notes the ongoing project on land administration,[29] the aims of which include making land acquisition easier, more flexible and transparent for businesses; it stresses that the project should be aligned with the Government's obligations to protect human rights and its stated ambition to improve tenure security and reduce poverty through better land administration.[30]

39. The Working Group also encourages the Government to refer to established standards in this regard, including the Food and Agriculture Organization of the United Nations (FAO) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests[31] as well as the World Bank's social safeguards[32] and the performance standards of the International Finance Corporation (IFC)[33] with respect to land acquisition, resettlement and compensation. Business enterprises wishing to acquire land for their economic activities should also refer to those standards. Furthermore, the Government should build the capacity of local authorities to apply such standards, and ensure that the rights of communities, including those of land users — including women — are respected.

Role of customary land ownership

40. Outside of the cities, the experts noted that the role of the Chiefs is strong and that those customary authorities wield considerable influence. The Working Group experts received information that negotiations with regard to land acquisition and resettlement often involved primarily the local Chiefs. While acknowledging customary land ownership and management, the Working Group learned, through its fact-finding work, that some Chiefs have not been able to identify the rights of all those who use or rely on community lands nor to communicate transparently with communities.

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[29] See World Bank, Land Administration Project for Ghana, available from http://web.worldbank.org/external/projects/main?pagePK=104231&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P071157.

[30] Ghana, National Land Policy 1999.

[31] FAO, Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012), available from http://www.fao.org/docrep/016/i2801e/i2801e.pdf.

[32] See World Bank, Operational Policy 4.12 - Involuntary Resettlement, available from http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:4564185~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html.

[33] See International Finance Corporation, Performance Standard 5: Land Acquisition and Involuntary Resettlement (1 January 2012), available from http://www.ifc.org/wps/wcm/connect/3d82c70049a79073b82cfaa8c6a8312a/PS5_English_2012.pdf?MOD=AJPERES.

41. The Working Group stresses that business enterprises negotiating with communities over land acquisition or land use have a responsibility to consult with all stakeholders and pay particular attention to potentially vulnerable or marginalized groups in their due diligence processes, whether or not the negotiations result in voluntary resettlement.[34]

Impacts of land acquisitions on women

42. The experts received information that women in particular were more likely to receive insufficient compensation for loss of access to land, and were at heightened risk of not being able to adequately replace former agricultural activities with new sustainable livelihoods. The experts were informed that, in the traditional land tenure system, Chiefs distribute lands to men only, as the "heads of household". According to the information received, in many traditional systems, men are the primary growers of cash crops, whereas women frequently grow food crops on communally held land or in the forests surrounding communities. When business enterprises calculate compensation for loss of access to or use of land in the context of resettlement, women may not receive appropriate compensation. Business enterprises seeking to acquire land need to assess how women and men may experience impacts of loss of access to land or settlement differently, and consult with all members of the affected community, including women.[35] Due regard should be given not only to replacement of cash crops and economic trees, but also to food crops.

4. Addressing impacts from the mining sector

Large scale mining

43. Ghana has a long history of mining, with the oldest mines having been in operation continuously for more than 100 years. This has created a complex legacy of social and environmental impacts.

44. A central breeding ground for company-community conflict is the emergence and growth of towns in the immediate vicinity of mining operations, leaving few or no "buffer zones" between the communities and the mines. Those communities may be more vulnerable to negative impacts on health or access to food and water, due to pollution of soil and waterways, and dust and air pollution caused by mining operations, as well as to resettlement when mine operations change or expand.

45. The granting of mining licences is regulated by the Minerals and Mining Act and administered by the Minerals Commission. Environmental permits are issued by the Environmental Protection Agency, in accordance with the Environmental Impact Assessment Regulations.[36] Environmental impact assessments must include assessment of potential impacts on land and livelihoods, as well as on health. The Minerals and Mining Act (No. 703) of 2006 also requires that applications for mining licences be made public for at least 21 days, during which communities can raise objections to the project. Notices are posted on boards at district assemblies, trade councils, local information centres, with copies sent to the land owners concerned. Resettlement of communities is also covered in the Minerals and Mining Act (No. 703). The Act provides for resettled communities to be furnished with appropriate housing of a similar standard as that which the community members had prior to resettlement. It also states that resettled communities should not be worse off economically.

[34] See Guiding Principles (A/HRC/17/31, annex), principle 12.
[35] Ibid., in particular principles 12 and 18.
[36] Ghana, Environmental Assessment Regulations 1999.

46. The Working Group notes that while the legal framework to prevent negative impacts from mining activities is relatively strong, there are gaps in the implementation by both public- and private-sector actors.

47. The experts heard reports of long-term legacy issues faced by communities: for example, during their visit, they met with communities which claimed that they had not received any information on planned mining activities prior to the start of operations, and that waterways had been blocked off without warning by backfill and blasts, which severely impacted their farms. The Working Group also heard reports that companies dumped toxic waste in streams and that mining blasts negatively impacted the health of the communities. The effects of those acts were still being felt, even many years later, and dialogue with the companies have not succeeded in addressing systematic issues, such as lack of viable livelihoods, dependence and claims of health impacts.

48. Older mining operations frequently face significant legacy issues when neither the technical knowledge nor the normative frameworks in existence today were in place at the start of operations. The Working Group witnessed serious efforts made to address environmental consequences of older mining operations with regard, for example, to waste and tailings treatment; however, challenges remain, especially regarding social issues related to land and security.

49. The experts also saw and heard reports that many mining companies in Ghana were attempting to address the negative impacts of mining systematically. The Ghana Chamber of Mines, a member of the International Council of Mining and Metals (ICMM), has been active in shepherding efforts in the sector to address human rights impacts. The Working Group found a higher level of awareness of the Guiding Principles in this sector than in other sectors considered during the visit.

50. At the same time, the experts also received information that mining companies had been lobbying strongly against the progressive improvement of regulations by EPA in areas such as waste and tailings management. The Working Group notes that the responsibility to respect human rights applies to all corporate activities and that business enterprises should not seek to undermine the legitimate exercise of environmental and social oversight by the State.

51. The experts were informed that the Minerals Commission requires every company in the mining sector to have a corporate social responsibility policy in place. The policy should provide for the communities concerned to form a committee to agree, based on consultations with the company, on the types of project that they want. The Working Group stresses that while social investment projects can bring benefits to communities, corporate responsibility is about identifying, preventing, mitigating and redressing potentially negative impacts on individuals and communities from the company's activities. The Guiding Principles state that failure to respect human rights cannot be "offset" through social investments.[37]

Impacts of legal and illegal small-scale mining

52. The Working Group experts received information about the impacts of legal as well as illegal small-scale mining, which reportedly accounts for 34 per cent of Ghana's gold output.

53. The experts were informed that while legal small and medium-size mining operations (typically around 25 acres) are regulated by the Minerals and Mining Act, they

[37] See Guiding Principles (A/HRC/17/31, annex), principle 11, commentary.

frequently lack the capacity and knowledge to effectively comply with environmental and social standards. In that context, the Working Group stresses that the Guiding Principles apply to all business enterprises, regardless of size,[38] and that small and medium-size mining enterprises need to have in place systems that are appropriate to their size and risks. In order to prevent adverse impacts, the Government should provide legal small-scale mining activities with support and capacity-building with regard to health and safety, environmental and labour norms, as well as the Guiding Principles. The experts noted the capacity-building initiative by the Chamber of Mines to recognize small-scale mining operations that operate responsibly. The Working Group encourages further private-sector initiatives in cooperation with the authorities.

54. The experts were informed of persistent problems associated with illegal mining. Illegal mining exists in two main forms: mechanized mining carried out by local or foreign mining concerns; and artisanal mining carried out by *galamseys* (local gold miners). The experts were informed that the mechanized mining concerns extract gold from the ore in rivers and streams, thereby polluting the waterways with cyanide and other toxins. The experts also heard reports of violence associated with mechanized illegal mining on concessions granted to large-scale legal mines, including reports of armed illegal miners attacking and shooting unarmed mine security personnel, as well as instances in which illegal miners had been shot during police crackdowns. The Working Group encourages Ghana to integrate human rights with respect to the use of security forces in its response to the problem of illegal mining.[39]

55. Artisanal mining by *galamseys* is largely a poverty-driven, informal activity; however, it is associated with severely adverse impacts, including the use of child labour and contamination and destruction of land, forests and rivers used by nearby communities. The experts heard reports of, as well as observed, children engaged in *galamsey* mining on land that had already been damaged and contaminated by illegal miners using mechanized equipment. In that context and with a view to addressing the negative impacts of the activity, the Working Group encourages the Government to review the possibility of regularizing some forms of artisanal *galamsey* mining, in cooperation with large and medium-size mining companies, so as to enable such operations to enter the formal economy.

5. Child labour in the cocoa and fishing sectors

56. Ghana's economy is still highly reliant on small-scale operations in agriculture, especially cocoa exports,[40] and fishing. Small family-owned operations predominate in the cocoa sector, and despite significant progress, child labour remains an issue. Statistics on the scale of child labour in the sector vary; in 2003, the United Nations Children's Fund (UNICEF) estimated that 20 per cent of children between the ages of 5 and 14 were engaged in some form of child labour.[41]

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[38] Guiding Principles (A/HRC/17/31, annex), principle 14.

[39] See the Voluntary Principles on Security and Human Rights, available from http://www.voluntaryprinciples.org/.

[40] Ghana is the second largest producer of cocoa in the world (after Côte d'Ivoire), producing around 800,000 tonnes annually. See Reuters, "Update 1 - Ghana signs $1.2 bln cocoa loan for 2013/14 crop purchases", available from http://www.reuters.com/article/2013/09/20/ghana-cocoa-loan-idUSL5N0HG39B20130920.

[41] UNICEF Ghana, available from http://www.unicef.org/wcaro/Countries_1743.html. In 2013, Ghana undertook a new child labour survey; the results were not available at the time of the conclusion of this report.

57. The Children's Act of 1998 sets the minimum employment age at 15 years, or 13 years for light work that is not likely to be harmful to the child and which does not affect the child's attendance at or capacity to benefit from school. The law also specifies the types of work that is considered "hazardous labour". In addition, the Hazardous Child Labour Activity Framework for the Cocoa Sector[42] prohibits children under 18 years from being engaged in certain activities defined as hazardous, including exposure to pesticides while carrying water to spray cocoa trees; carrying heavy loads; working with dangerous tools, such as machetes used to clear underbrush; working with fire to burn underbrush; and felling trees.

58. The experts noted that the causes of the persistent problem of child labour on cocoa farms are multifaceted, and combine poverty, lack of access to quality education, the price of cocoa, farming practices, lack of economic opportunity, but also cultural practices that prevent communities from seeing children's work on cocoa farms as "child labour", or as being harmful to the child. The experts were told that, traditionally, children are seen as the property of their parents and that it is the parents who decide whether the child should work. The Working Group notes that while the tradition of passing on knowledge and skills from parents to children is important in Ghanaian society, parents need to know how to recognize activities that are harmful to children's development.

59. In 2006, Ghana established the National Programme for the Elimination of the Worst Forms of Child Labour in Cocoa (NPECLC), which combines sensitization, education, development of institutional capacity, development of the legal framework, efforts to improve the knowledge-base of child labour in the sector, interventions at the community level and other actions.[43] In 2010, the Government adopted the National Plan of Action for the Elimination of the Worst Forms of Child Labour, which provides a framework to reduce the worst forms of child labour by 2015. Notably, the plan aims to provide better coordination among various initiatives aimed at addressing child labour. Central to the implementation of those efforts is the Ghana Child Labour Monitoring System (GCLMS), which aims to provide a holistic system for identifying child labour, removing child labourers and referring them to remediation services, and ensuring that removed child labourers are not replaced with new ones. ILO, the International Organization for Migration (IOM) and UNICEF support the implementation of this system.[44]

International supply chains

60. Almost all of Ghana's cocoa is exported. The Government-controlled COCOBOD (Ghana Cocoa Board) sets the price of most forms of cocoa,[45] which is bought by international cocoa processors and confectionary companies. Following significant international attention to the issue of child labour in the cocoa industry in the early 2000s, the cocoa industry signed the Harkin-Engel Protocol, an agreement to eliminate the worst forms of child labour in the cocoa supply chain.[46] Since the signing of the Protocol, a number of initiatives to identify and reduce child labour in the cocoa supply chain have been established, including industry initiatives and multi-stakeholder efforts.

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[42] http://www.npeclc.gov.gh/Downloads/HAF.pdf.

[43] National Programme for the Elimination of the Worst Forms of Child Labour in Cocoa (NPECLC) Annual Report 2011. http://npeclc.gov.gh/Downloads/2011%20Annual%20report.pdf.

[44] UN Development Assistance Framework Ghana 2012-2016. See also National Programme for the Elimination of the Worst Forms of Child Labour in Cocoa (NPECLC) http://npeclc.gov.gh/home/.

[45] COCOBOD, http://www.cocobod.gh/objectives.php.

[46] Available from http://www.cocoainitiative.org/en/reports/harkin-engel-protocol.

Interventions at the community level: multi-stakeholder initiatives and law enforcement

61. The Working Group experts visited cocoa communities and supporting non-governmental organizations (NGOs) in New Edubiase and Assin Fosu to see examples of interventions to address child labour. Communities in these districts had participated in interventions supported by multi-stakeholder initiatives, such as the International Cocoa Initiative, as well as interventions supported by individual companies and foundations. The Working Group also met with farmers who had participated in certification schemes, such as the Rainforest Alliance.

62. Several good practices were noted, including holistic approaches that address both the issue of human rights violations and poverty with measures that complement and reinforce each other as well as combine business, State, development-oriented NGOs and community action, including families with children at risk. Successful interventions combine, at the local level, education and awareness-raising with regard to families and the community, including traditional authorities, in the areas of child protection and rights, technical assistance in agriculture to help farmers increase crop yields; community ownership of interventions through the creation of Community Action Plans to address the practices leading to child labour, community self-monitoring through Child Protection Committees to address instances of child labour with the family in question; and coordination with district-level local government representatives who reinforce compliance through communication with the communities, and who also act as a liaison to obtain supporting resources from the local authorities for education, health services and other forms of support. Technical assistance and support are also provided to communities to increase cocoa yields and diversify to other crops, including oil palm for extraction. Such efforts appeared to have achieved significant results in changing attitudes to child labour and in reducing the worst forms of child labour in the target communities.

63. Despite those positive efforts, however, the Working Group notes that there are close to 800,000 farmers in Ghana and current initiatives cover only a fraction of them. The national Government, district and municipal authorities, international brands, cocoa buyers, and the international community should step up their efforts to close the gap. International buyers and brands can, for example, set yearly targets to make sure that their supply chain in Ghana and internationally is free of child labour.[47] States in which buyers are based can contribute by requiring businesses to conduct appropriate due diligence in their supply chain and exercise leverage in the industry. The Working Group also notes that successful community transformation methodologies in the cocoa industry can inform initiatives in other sectors in Ghana, for example the fishing industry, where serious violations have led to the death of children.

Trafficked child labour in fisheries

64. The Working Group notes with great concern the information it received about children as young as 6 years old being engaged in hazardous labour in the fishing industry in Lake Volta, including children employed to untangle fishing nets under water, at great risk to their lives. Moreover, the International Organization for Migration reported that some of the children working in the industry were victims of trafficking – an additional grave violation of their rights that renders them especially vulnerable to abuse.[48] Such trafficking normally takes place in the informal sector, where families living in extreme

[47] See in particular, Guiding Principles (A/HRC/17/31, annex), principle 19 and commentary.

[48] See International Organization for Migration, "Countering Child Trafficking in Ghana: Ten Years of Counter-Trafficking, 2002-2012", available from https://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/IOM-Ghana-CT-2013-Update.pdf.

poverty may sell their child to a relative or stranger in exchange for a sum of money and/or promise of employment of the child. The Working Group urges the Government to address this situation as a matter of urgency, in cooperation with development partners and organizations such as the IOM. Business enterprises, such as hotels, restaurants and food retailers that buy fish or fish products from the Lake Volta region should seek to prevent and mitigate the risks of child and trafficked labour in the supply chain. Both the Government and business enterprises should seek to identify relevant entry points for dialogue with the fisheries sector, such as fishermen's associations.

6. Ensuring respect for labour rights across all business sectors

65. Article 24 (1) of the Constitution of the Republic of Ghana establishes basic labour rights, including the right to form and join trade unions (with some exceptions). The Ghana Labour Act of 2003 elaborates on the provisions contained the Constitution and provides for other labour rights, including the right to collective bargaining.[49]

66. The Working Group experts were informed that foreign and local small and medium-size companies in sectors such as plastics and chemicals, rubber, foam and other small-scale manufacturing often lack effective standards. In particular, the experts received information about substandard health and safety conditions in such factories, excessive working hours and pay that did not enable a decent standard of living for the worker and his/her family. The experts received information that some employers made excessive use of short-term contracts and so-called casual workers (employed for less than six months) to circumvent protections in the Labour Act. Although temporary and casual workers still enjoy some protections under the Act, their contracts are not required to be formalized, which leaves many workers effectively unable to assert their rights.

67. While the Labour Act prohibits discrimination based on gender in employment, the Working Group experts heard that women are frequently discriminated against in recruitment and eligibility for promotion. Furthermore, in some sectors, women of child-bearing age face discrimination; for example, the experts were informed that some financial services companies actively discouraged female employees from becoming pregnant, or threatened them with reprisals, such as losing their job or opportunities for promotion if they did so. Such practices run counter to the principles of equality and non-discrimination that are core to all human rights, as well as to Ghana's labour rights obligations under the fundamental ILO conventions and the Guiding Principles.

68. The experts also received information that some companies, including in the telecommunications, manufacturing and road construction sectors, employed measures to discourage workers from forming legitimate trade unions and from collective bargaining. Such measures include informal incentives, such as the promise of higher pay or a bonus, for workers to choose not to join a trade union. Those measures are illegal under the Labour Act of 2003.[50] The Government also prohibits unionization in a number of industries that are deemed "essential", including fuel distribution, public transportation and the prison system.[51]

69. The Working Group notes that Ghana has a strong trade union movement and encourages the Government to further strengthen Ghana's tradition of tripartite dialogue and cooperation, in order to ensure that rights are respected across sectors.

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[49] Ghana, Labour Act, 2003.

[50] Ghana, Labour Act, 2003, art. 14.

[51] See Freedom House, "Freedom in the World 2013: Ghana". Available from http://www.freedomhouse.org/report/freedom-world/2013/ghana.

70. The Labour Act provides for the establishment of a Labour Commission,[52] with a mandate to hear and settle industrial disputes, investigate labour-related complaints, promote effective cooperation between labour and management and facilitate access to mediation and arbitration. The Labour Inspectorate, situated within the Ministry of Employment and Social Welfare, has the mandate to oversee observance of labour laws and regulations in workplaces and to provide technical assistance and advice to employers and workers. The experts received information that, while the Inspectorate aims to inspect all factories twice a year under the new inspection policy, it is currently not able to fully meet its mandate to effectively oversee workplaces.

71. Addressing labour conditions and other impacts on human rights in the informal sector is a challenge, and the Working Group was pleased to see efforts by the Ghana Trades Union Congress and others to work with informal sector associations to address the challenges with regard to labour conditions, health and safety, child labour and other labour concerns in several sectors of the informal economy. The Government should encourage such efforts, and should also strengthen outreach and awareness-raising at the local level to ensure that people employed in the informal sector are aware of their rights and have information about available redress mechanisms.

7. Corruption, transparency and participation

72. The Working Group experts received information that corruption is a concern in Ghana.[53] The Working Group has previously noted[54] that corruption has the effect of weakening State authorities' accountability and effectiveness in preventing and addressing human rights violations, including those linked to business activities.

73. To ensure that agencies tasked with enforcing and monitoring compliance with laws, regulations and policies that require business enterprises to respect human rights are effective and accountable, the Working Group particularly encourages anti-corruption efforts focused on the integrity of officers involved in law enforcement at the district or municipal levels and in the judicial sector. In addition, the Government should support access to information regarding business activities through transparency measures so as to increase the potential for civil society organizations and human rights defenders to act as effective checks on both business enterprises and public officials. The Working Group appreciates that Ghana has a National Anti-Corruption Action Plan (NACAP) developed by CHRAJ;[55] it urges the Government to fully implement the plan, and to prioritize implementation of the activities indicated for following up on the recommendations of the first universal periodic review of Ghana.[56]

V. Conclusions and recommendations

74. **The Working Group notes with appreciation the political commitment of the Government of Ghana to the Guiding Principles on Business and Human Rights and**

[52] Ghana Labour Act, 2003.

[53] According to Transparency International, Corruption Perception Index 2012, Ghana ranked 64 out of 176 (where 1 = least corrupt): see Transparency International, Global Corruption Barometer 2013, Corruption by Country/Territory. Available from http://www.transparency.org/gcb2013/country/?country=ghana.

[54] A/HRC/23/32/Add.1, para. 80.

[55] See A/HRC/WG.6/14/GHA/1, para. 104.

[56] Ibid., para. 103.

the notable advances that Ghana has made in tackling some impacts on human rights associated with business activities.

A. Recommendations to the Government

75. In view of the above, the Working Group recommends that the Government:

(a) Ensure that the Guiding Principles on Business and Human Rights and the present report are disseminated widely to all stakeholders, and that the expectations regarding the conduct of business enterprises in high-impact sectors with respect to prevention, mitigation and remedial actions are clearly communicated;

(b) Collaborate with relevant institutions and networks, such as the Commission on Human Rights and Administrative Justice (CHRAJ) and the Ghana Global Compact Local Network, to implement the Guiding Principles;

(c) Draw on all available technical assistance to implement the recommendations made in the present report.

76. On the national framework for protection of human rights and for addressing the impacts of business activities on human rights, the Working Group recommends that the Government:

(a) Integrate the Guiding Principles and business respect for all internationally recognized human rights into all relevant policies, with priority to those pertaining to the development of national business, public-private partnerships for infrastructure development and services, investment promotion and development assistance;

(b) Consider developing a national action plan for the implementation of the Guiding Principles, through an inclusive consultative, human rights-based process, and draw on all available technical assistance in that regard;

(c) Consider giving the CHRAJ or another competent institution the formal mandate to review proposed investment agreements in order to identify possible implications for the protection of human rights;

(d) Consider updating the Environmental Impact Assessment Act to incorporate provisions for robust human rights impact assessments, and ensure that the Environmental Protection Agency (EPA) has adequate resources so as to fully implement its monitoring role;

(e) Ensure that agencies tasked with oversight and accountability with regard to the private sector have adequately resources and the relevant knowledge and expertise to effectively carry out their mandates;

(f) Expand the AKOBEN transparency programme to other sectors of the economy and ensure robust public dissemination of its results;

(g) Integrate the Guiding Principles into the planned corporate social responsibility (CSR) policy;

(h) Consider measures to combat corruption and implement said measures as a matter of priority, in line with the recommendations made during the first cycle of the universal periodic review of Ghana.

77. On access to remedy, the Working Group recommends that the Government:

(a) Refer to the Guiding Principles as well as internationally recognized human rights standards and other standards, such as the Basic Principles and

Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law[57] and the Basic Principles on the Independence of the Judiciary,[58] to guide the review of and amendments to existing remedial mechanisms;

(b) Conduct a review of access to effective State-based, non-judicial grievance mechanisms and make recommendations for strengthening such mechanisms at the local and national levels;

(c) Ensure that CHRAJ has adequate resources to implement its mandate and to serve as an effective alternative dispute resolution mechanism for addressing business impacts on human rights;

(d) Consider reviewing the required waiting period between a CHRAJ adjudication and the ability of CHRAJ to seek judicial enforcement of the ruling, in order to increase its effectiveness;

(e) Ensure that mandatory training for the judiciary includes training on Ghana's international human rights obligations and on standards related to business and human rights, including all three pillars of the Guiding Principles, namely, protect, respect and remedy;

(f) Consider increasing the number of qualified lawyers providing free legal assistance throughout the country, in particular outside of the capital, and expand the legal aid programme.

78. **On issues pertaining to land and consultation with affected stakeholders, the Working Group recommends that the Government:**

(a) Ensure respect for human rights in relation to land acquisition, land tenure, land use, displacement and resettlement of communities, in line with FAO's Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, the World Bank's social safeguards on land, the International Finance Corporation's performance standards and other relevant international standards;

(b) Ensure that those who may be affected by business activities receive timely and complete information about planned projects or developments, and that business enterprises consult such affected stakeholders in a meaningful way, including through reviewing practices for ensuring compliance with existing standards and increasing on-the-ground oversight of high-risk projects;

(c) Prioritize the strengthening of human resources and technical capacity of State agencies charged with monitoring and enforcing business activities, including in particular the Environmental Protection Agency;

(d) Undertake a review of how women experience impacts from resettlement, with a view to identifying specific legislative, policy or practical measures to reduce the risk that women's livelihoods, health and other rights are negatively impacted.

79. **On employment and labour rights, the Working Group recommends that the Government:**

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[57] General Assembly resolution 60/147, annex.

[58] Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985.

(a) Prioritize the enforcement of labour laws and standards, in line with Ghana's international commitments and obligations under ILO conventions and human rights treaties;

(b) Ensure that the Ministry of Employment and Social Welfare, in particular the Labour Commission and the Labour Inspectorate, has adequate financial and technical resources to oversee factories and workplaces and effectively regulate the implementation of labour standards;

(c) Ensure that the Labour Commission has adequately resources to hear and adjudicate complaints from workers about infringements of labour rights;

(d) Ensure that inspection standards are compatible with Ghana's international obligations under the ILO Labour Inspection Convention, 1947 (No. 81);

(e) Collaborate with national trade unions and trade union federations in addressing issues of concern, including working conditions in factories, child labour and discrimination against women in the workplace;

(f) Ensure protection of the labour rights of all persons within its jurisdiction, whether or not the person is formally employed, and specifically address the situation of foreign and informal workers;

(g) Address, as a matter of priority, the issue of forced or slave labour in all economic sectors, in particular the fishing industry, in accordance with ILO conventions and national and international standards.

80. **On the extractives sector, the Working Group recommends that the Government:**

(a) Review EPA's environmental assessment regulations so as to explicitly incorporate impact assessments on all internationally recognized human rights, and require human rights due diligence prior to commencing licensing, during operations, and during closure of operations, as relevant;

(b) Incorporate respect for human rights into government reporting programmes, such as the AKOBEN programme;

(c) Require that business enterprises provide adequate remedy to people whose livelihoods have been affected by mining or the oil and gas sector, and that such remedy involve, at a minimum, improvement plans with regard to business policies and practices, compensation, appropriate disclosure of information and stakeholder engagement;

(d) Step up efforts to effectively oversee implementation of environmental and health standards in the small-scale mining sector, including through capacity-building and incentives for knowledge-sharing;

(e) Consider supporting and incentivizing small-scale miners in order to improve compliance with environmental and social standards, and ensure adequate sanctions for violations of those standards;

(f) Integrate the responsibility to prevent and address human rights risk into all State-investor contracts;

(g) Become a participant in the Voluntary Principles on Security and Human Rights and consider creating an equivalent national initiative for small and medium-size businesses.

81. **On child labour, the Working Group recommends that the Government:**

(a) Ensure, as a matter of priority, that the national action plan on the elimination of child labour is fully resourced and effectively implemented throughout Ghana;

(b) Ensure that local government officials tasked with implementing the national action plan have adequate training and capacity to effectively implement the plan within local communities;

(c) Strengthen dialogue and cooperation with local, national and international multi-stakeholder initiatives and with international organizations and programmes working to eliminate child labour, in order to ensure mutual learning, reinforcement, geographic spread of initiatives, and to avoid duplicative efforts;

(d) Raise awareness of the issue of child labour and its harmful effects on children's health and development;

(e) Address, as a matter of urgency, the situation with regard to child labourers in the fishing industry in the Lake Volta region.

B. Recommendations to business and international development partners

82. **The Working Group recommends that business enterprises:**

(a) Comply with their responsibility to respect international human rights and labour standards, including by adopting a human rights policy, carrying out human rights due diligence with regard to both current and planned operations, in consultation with concerned stakeholders, and addressing any negative impacts that they cause, contribute to or are involved with through their business relationships, as per the Guiding Principles;

(b) Consult regularly and directly with stakeholders concerned and the communities where their operations take place in ways that are accessible and meaningful to the stakeholders, reflect local customs and traditions, take into consideration potentially vulnerable or marginalized groups, and ensure that all concerned stakeholders have timely and complete information about projects or changes that may affect them;

(c) With respect to activities impacting land, consult with Chiefs, and ensure that the perspectives of all stakeholder groups, particularly those whose rights to property may not be recognized by either formal or customary land tenure systems are taken into account;

(d) Pay particular attention to how women might experience impacts differently from men, in particular with respect to projects involving land and resettlement;

(e) As part of developing a human rights policy, establish a zero-tolerance, anti-discrimination policy and address, as a matter of priority, potential discrimination against women in the workplace, including with respect to practices that may discriminate against women of child-bearing age;

(f) Establish non-judicial grievance mechanisms in line with the requirements of principle 31 of the Guiding Principles, and seek and share information on good practices nationally, including with particular attention to the accessibility of such mechanisms for women and potentially vulnerable groups, such as persons with disabilities;

(g) Comply with their legal obligations to restore land after the close of mining operations, in the case of mining companies;

(h) With respect to international companies sourcing cocoa in Ghana, step up efforts, through multi-stakeholder initiatives and partnerships with the Government and organizations such as ILO and UNICEF, to scale up successful models to reduce child labour in the cocoa industry.

83. **The Working Group recommends that industry and private sector associations:**

(a) Formally adopt the Guiding Principles on Business and Human Rights and require that members regularly report on progress and improvement plans;

(b) Share and disseminate members' experiences and good practices relating to the business responsibility to respect human rights.

84. **The Working Group recommends:**

(a) That Ghana's international development partners support the Government's efforts to promote business respect for human rights and strengthen institutions charged with overseeing business activities;

(b) That the home States of transnational business enterprises operating in Ghana clearly set out the expectation that business enterprises domiciled in their territory and/or jurisdiction respect human rights in all their global operations, as stipulated in the Guiding Principles;

(c) That international organizations working with the Government of Ghana integrate the Guiding Principles into their programmes, where relevant;

(d) That the Ghana Commission on Human Rights and Administrative Justice continue to enhance its role in disseminating and providing guidance on human rights to business enterprises.